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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/246,307	02/08/1999	ALAN P. KOZIKOWSKI	9928-0009-99	6016

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EXAMINER	
GUPTA, ANISH	
ART UNIT	PAPER NUMBER
1653	

DATE MAILED: 04/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/246,307	Applicant(s) KOZIKOWSKI ET AL.	
	Examiner Anish Gupta	Art Unit 1653	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 7-11-01 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires *6 mont* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *none*.

   Claim(s) objected to: *73*.

   Claim(s) rejected: *12-17,20-28,31,32 and 74-81*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Christopher S. F. Low
CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Continuation of 5. does NOT place the application in condition for allowance because: of the following reasons: For the 112 First paragraph rejection, Applicants have argued that the specification sets forth variety of in-vitro tests that demonstrate neruprotection against both acute and chronic neurodegenerative disorders. Applicants state make referece to a declaration submitted by Dr. Faden in the parent application 09/022,184 that show that the compounds offered neuroprotection from excitotoxic injury, ischemic injury, traumatic injury, nerotic injury and apoptotic cell death caused by staurosporine. The reliance on the Patel reference is misplaced since number of drugs have been approved prior to priority date of the invention that show reproducible cognition enhancment in patients with alzheimers disease.

Applicants response and the declaration by Dr. Faden filed 7-11-01 has been considered but is not found persuasive.

First, applicants reliance on the in-vitro methodology is not sufficient to overcome the rejection. Again attention is directed to the Patel et al. reference which concludes, even after reviewing various known Alzheimer therapies, that the search for an effective cognition-enhancing therapy has so far proved elusive (see page 90). The art indicates that there is no predictive value associated with in-vitro methodology for the treatment of Alzheimerr's disease. Thus, the rejection is maintained for the reasons set forth in the previous office actions and the reasons set forth above.

Finally, note that the IDS filed along with the response has not been considred since it was filed after the mailing date of the final office action. Note that 1.94(c) requires that the submission be made before the mailing of the final office action. In this case, the IDS was submitted 6months after the mailing of the final action.